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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-851]

Certain Preserved Mushrooms from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: [Insert the publication date in the *Federal Register*.]

SUMMARY: On March 12, 2013, the Department of Commerce (the Department) published in the *Federal Register* the preliminary results of the administrative review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China (PRC) covering the period February 1, 2011, through January 31, 2012.¹ This review covers the following three companies: Blue Field (Sichuan) Food Industrial Co., Ltd. (Blue Field); Dujiangyan Xingda Foodstuffs Co., Ltd. (Xingda); and Zhejiang Iceman Group (Iceman Group). We provided interested parties an opportunity to comment on the *Preliminary Results*. We received no comments. The Final Results are unchanged from the *Preliminary Results*. The final weighted-average dumping margins for this review are listed below in the "Final Results of Review" section of this notice.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney, or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2475 or (202) 482-0649, respectively.

¹ See *Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 15683 (March 12, 2013) (*Preliminary Results*).

SUPPLEMENTARY INFORMATION

Background

On March 12, 2013, the Department published the *Preliminary Results* of the instant review.² By virtue of their failure to respond to our antidumping questionnaire, Xingda and Iceman Group failed to establish that they are separate from the PRC-wide entity.³

Consequently, the Department examined the PRC-wide entity, which included Xingda and Iceman Group, among other companies, for the *Preliminary Results* and assigned a preliminary weighted-average dumping margin of 308.33 percent.⁴

We invited interested parties to comment on the *Preliminary Results*.⁵ We received no comments from interested parties.

Scope of the Order

The products covered by this order are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The certain preserved mushrooms covered under this order are the species Agaricus bisporus and Agaricus bitorquis. “Certain Preserved Mushrooms” refers to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including, but not limited to, cans or glass jars in a suitable liquid medium, including, but not limited to, water, brine, butter or butter sauce. Certain preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this order are “brined”

² *Id.*

³ See March 4, 2013 “Memorandum for the Preliminary Results in the Administrative Review: Certain Preserved Mushrooms from the People’s Republic of China” (Preliminary Decision Memorandum) at 8-11.

⁴ *Id.*

⁵ See *Preliminary Results*, 78 FR at 15685.

mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.⁶

Excluded from the scope of this order are the following: (1) all other species of mushroom, including straw mushrooms; (2) all fresh and chilled mushrooms, including “refrigerated” or “quick blanched mushrooms;” (3) dried mushrooms; (4) frozen mushrooms; and (5) “marinated,” “acidified,” or “pickled” mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.

The merchandise subject to this order is classifiable under subheadings: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153, and 0711.51.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of this order is dispositive.

Final Determination Not To Rescind Review in Part

In the *Preliminary Results*, consistent with its practice,⁷ the Department stated its intent not to rescind the review for the following companies that remain a part of the PRC-wide entity: (1) China National Cereals, Oils & Foodstuffs Import & Export Corp.; (2) China Processed Food Import & Export Co.; (3) Fujian Pinghe Baofeng Canned Foods; (4) Fujian Yuxing Fruits and Vegetables Foodstuffs Development Co., Ltd.; (5) Fujian Zishan Group Co., Ltd.; (6) Guangxi Eastwing Trading Co., Ltd.; (7) Inter-Foods (Dongshan) Co., Ltd.; (8) Longhai Guangfa Food

⁶ On June 19, 2000, the Department affirmed that “marinated,” “acidified,” or “pickled” mushrooms containing less than 0.5 percent acetic acid are within the scope of the antidumping duty order. See Recommendation Memorandum-Final Ruling of Request by Tak Fat, et al. for Exclusion of Certain Marinated, Acidified Mushrooms from the Scope of the Antidumping Duty Order on Certain Preserved Mushrooms from the People’s Republic of China,” dated June 19, 2000. On February 9, 2005, the United States Court of Appeals for the Federal Circuit upheld this decision. *See Tak Fat v. United States*, 396 F.3d 1378 (Fed. Cir. 2005).

⁷ *See, e.g., Handtrucks and Certain Parts Thereof from the People’s Republic of China: Preliminary Results of the 2010-2011 Antidumping Duty Administrative Review*, 78 FR 1835 (January 9, 2013), and accompanying Preliminary Decision Memorandum at 3.

Co., Ltd.; (9) Primera Harvest (Xiangfan) Co., Ltd.; (10) Shandong Fengyu Edible Fungus Corporation Ltd.; (11) Sun Wave Trading Co., Ltd.; (12) Xiamen Greenland Import & Export Co., Ltd.; (13) Xiamen Gulong Import & Export Co., Ltd.; (14) Xiamen Jiahua Import & Export Trading Co., Ltd.; (15) Xiamen Longhuai Import & Export Co., Ltd.; (16) Zhangzhou Long Mountain Food Co., Ltd.; and (17) Zhangzhou Golden Banyan Foodstuffs Industrial Co., Ltd.⁸

At that time, we explained that, although the Department received withdrawal of review requests for these companies, we would not rescind the reviews because the PRC-wide entity remains under review.⁹ Since the *Preliminary Results*, the Department has not received any information that would cause it to revisit its preliminary determination not to rescind the review with respect to these companies. Accordingly, consistent with its practice, the Department will issue appropriate instructions to U.S. Customs and Border Protection (CBP) for any entries made by these companies during the period of review (POR).

Final Determination of No Shipments

In the *Preliminary Results*, consistent with its practice, the Department stated its intent to continue the review of the following companies that claimed no reviewable transactions during the POR: (1) Guangxi Hengyong Industrial & Commercial Dev., Ltd. (Guangxi Hengyong); (2) Zhangzhou Tongfa Foods Industry Co., Ltd (Zhangzhou Tongfa); (3) Zhangzhou Hongda Import & Export Trading Co., Ltd. (Zhangzhou Hongda); and (4) Fujian Golden Banyan Foodstuffs Industrial Co., Ltd.¹⁰ Subsequent to the *Preliminary Results*, no information was submitted on the record that would cause the Department to revisit its preliminary determination

⁸ The Department considers Zhangzhou Golden Banyan to be distinct from another company with a similar name for which a review was requested, Fujian Golden Banyan Foodstuffs Industrial Co., Ltd. In the immediately-preceding review, the Department calculated a separate rate for Fujian Golden Banyan Foodstuffs Industrial Co., Ltd., while it considered Zhangzhou Golden Banyan to remain a part of the PRC-wide entity. *See Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 77 FR 55808 (September 11, 2012).

⁹ *See Preliminary Results*, 77 FR at 15684-85.

¹⁰ *Id.*

of no shipments by these companies. Accordingly, consistent with its practice,¹¹ the Department will issue appropriate instructions to CBP for any entries made by these companies during the POR.

Final Results of Review

The Department has determined that the following dumping margins exist for the period February 1, 2011, through January 31, 2012:

Exporter	Weighted-Average Margin (Percent)
Blue Field (Sichuan) Food Industrial Co., Ltd.	102.11
PRC-wide entity ¹²	308.33

Disclosure

We will disclose calculation memoranda used in our analysis to parties to this proceeding within five days of the date of publication of this notice pursuant to 19 CFR 351.224(b).

Assessment Rates

The Department has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.¹³

The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

¹¹ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

¹² The PRC-wide entity includes, among other companies: Dujiangyan Xingda Foodstuffs Co., Ltd., Zhejiang Icedman Group Co., Ltd., Ayecue (Liaocheng) Foodstuffs Co., Ltd., and Shandong Jiufa Edible Fungus Corporation, Ltd.

¹³ See section 751(a)(2)(A) of the Tariff Act of 1930, as amended (the Act); 19 CFR 351.212(b)(1).

In accordance with 19 CFR 351.212(b)(1), we calculated importer-specific (or customer-specific) assessment rates for merchandise subject to this review for any individually examined respondents whose weighted-average dumping margin is above de minimis (*i.e.*, 0.5 percent).¹⁴ Blue Field did not report entered values for its U.S. sales. Accordingly, we calculated a per-unit assessment rate for each of Blue Field's importers (or customers) by dividing the total dumping margins for reviewed sales to that importer by the kilogram weight of those transactions. For assessment rates calculated on this basis, we will direct CBP to assess the resulting per-unit dumping margin.

The Department recently announced a refinement to its assessment practice in non-market economy (NME) cases.¹⁵ Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under the exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the NME-wide rate.¹⁶

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of this notice of final results of the administrative review for all shipments of subject merchandise entered or withdrawn from warehouse, for consumption, on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies subject to this review

¹⁴ In these final results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012).

¹⁵ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

¹⁶ See *id.*

will be equal to the respective weighted-average dumping margin established in the final results of this review; (2) for previously investigated or reviewed companies not listed above that have their own rates, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the exporter participated; (3) for all other PRC exporters that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity (*i.e.*, 308.33 percent); and (4) for all non-PRC exporters of the subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied the non-PRC exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

May 30, 2013
Date

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